

Equilease Corporation

750 THIRD AVENUE • NEW YORK, N. Y. 10017 • TEL. (212) 557-6800

RECORDATION NO. **11968** Filed 1425 CABLE EQUILEAS TWX 710-581-4581

JUL 3 1980 -4 10 PM

July 2, 1980

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I. C. C. EXECUTIVE OFFICES
FEE OPERATION BR.

BY HAND INTERSTATE COMMERCE COMMISSION

Secretary of the Interstate Commerce Commission
Twelfth and Constitution Avenues, N.W.
Washington, D.C. 20423

0-185A046

No. **JUL 3 1980**

RECORDATION NO. **11968** Filed 1425 Fee \$ **60.00**

Attention: Mrs. Mildred Lee
Room 2303

JUL 3 1980 -4 10 PM ICC Washington, D. C.

Madame:

INTERSTATE COMMERCE COMMISSION

Enclosed are five counterpart sets of each of the following documents:

- (1) Lease of Railroad Equipment, dated as of April 15, 1980 (the "Lease") between Missouri Pacific Railroad Company, (the address of which is 210 North 13th Street, St. Louis, Missouri 63101), as Lessee, and Equilease Corporation (the address of which is 750 Third Avenue, New York, New York 10017) ("Equilease"), as Lessor. The railroad equipment covered by the Lease consists of twenty-six (26) GP38-2 diesel-electric locomotives, manufactured by the Electro-Motive Division of the General Motors Corporation, bearing A.A.R. mechanical designations of "BB", and Missouri Pacific road numbers MP-2238 through and inclusive of MP-2263; and
- (2) Lease Assignment dated as of April 15, 1980 from Equilease, as Assignor to Girard Bank as Agent (the address of which is Three Girard Plaza, Third Floor, Philadelphia, Pennsylvania 19101), as Assignee. This Lease Assignment relates to the Lease described in (1) above.

All enclosed documents have been properly verified.

an **Eltra** company

C. D. [Signature]
Jane Roberts

97
-8/16

Mrs. Mildred Lee

2.

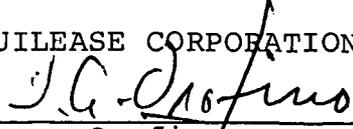
Please record the enclosed documents in accordance with the provisions of the Interstate Commerce Act (49 U.S.C. §11303), and return to the bearer hereof all copies not required to be retained by the Commission. We would appreciate each copy so returned being stamped to evidence such recordation.

A check in the amount of \$60, payable to the order of the Commission, is enclosed herewith in payment of the filing fees.

Thank you for your attention to this matter.

Very truly yours,

EQUILEASE CORPORATION



Thomas Orofino
Vice President

Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

7/3/80

OFFICE OF THE SECRETARY

Thomas Orofino
Vice President
Equilease Corporation
750 Third Avenue
New York, N.Y. 10017

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **7/3/80** at **4:10pm**, and assigned re-
recording number(s). **11968 & 11968-A**

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

11968

RECORDATION NO. Filed 1425

JUL 3 1980 -4 10 PM

INTERSTATE COMMERCE COMMISSION

LEASE OF RAILROAD EQUIPMENT

Dated as of April 15, 1980

between

Missouri Pacific Railroad Company

and

Squilease Corporation

[Covering 26 Diesel-Electric Locomotives]

Filed and recorded with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 on May __, 1980, at recordation number __, and deposited in the Office of the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada on May __, 1980, at ____.

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* This Table of Contents has been included in this document for convenience only and does not form a part of or affect any construction or interpretation of this document.

LEASE OF RAILROAD EQUIPMENT, dated as of April 15, 1980, between MISSOURI PACIFIC RAILROAD COMPANY (the "Lessee") and EQUILEASE CORPORATION, a New York corporation, (said corporation hereinafter called the "Lessor").

WHEREAS, the Lessor entered into a conditional sale agreement dated as of September 16, 1976 (hereinafter called the "Conditional Sale Agreement" or the "CSA") with General Motors Corporation (hereinafter called the "Builder"), wherein the Builder agreed to construct, sell and deliver to the Lessor certain units of railroad equipment (the "Thirty Locomotives") described in Annex A thereto, a copy of which agreement has been delivered to the Lessee;

WHEREAS, the Builder assigned its interest in the Conditional Sale Agreement to Girard Trust Bank (a predecessor of Girard Bank) as agent (hereinafter called the "Agent") pursuant to an agreement and assignment (hereinafter called the "Assignment") dated as of September 16, 1976, between the Builder and the Agent, a copy of which has been delivered to the Lessor and the Lessee;

WHEREAS, the Thirty Locomotives were leased by the Lessor to William M. Gibbons, Trustee of the Property of the Chicago, Rock Island and Pacific Railroad (the "Old Lessee") under two leases dated as of September 16, 1976 which leases are being

terminated pursuant to a Termination Agreement dated as of the date hereof (the "Termination Agreement") between the Lessor and the Old Lessee;

WHEREAS, the Lessee desires to lease twenty-six units of said equipment (hereinafter called collectively the "Equipment" or the "Units" or individually a "Unit") which Units are described in Schedule A hereto, or such lesser number as are delivered and accepted by it on or before September 1, 1980, at the rentals and for the terms and upon the conditions hereinafter provided;

WHEREAS, to induce the Lessor to lease the Units to the Lessee the Builder has guaranteed certain of the Lessee's obligations under this Lease pursuant to a guaranty agreement dated as of September 16, 1976, among the Builder, the Agent and the Lessor, (the "Guaranty Agreement"); and

WHEREAS, to induce the Builder to make the guarantees contained in the Guaranty Agreement, the Lessee has agreed to have a portion of its rental payments for the Units as set forth herein paid by the Agent to the Builder, which portion will be the premium payments required pursuant to the Guaranty Agreement.

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the

Lessor hereby leases the Units to the Lessee and the Lessee hereby hires the Units from the Lessor, upon the following terms and conditions, but, upon default of the Lessee hereunder, subject to all the rights and remedies of the Vendor (as defined in the Conditional Sale Agreement), notwithstanding anything in this Lease to the contrary:

§ 1. Financing. This Lease provides for the lease, by the Lessee from the Lessor of the Units delivered to the Lessee prior to September 1, 1980, such Units having been financed pursuant to a finance agreement among the Agent and The Paul Revere Life Insurance Company (successor to the interests of the Great American Insurance Company and The Provident Bank) and Erie County Savings Bank (hereinafter collectively the "Investors") dated as of September 16, 1976 (the "Finance Agreement").

§ 2. Delivery and Acceptance of Units. The Lessor purchased the Thirty Locomotives described in the Conditional Sale Agreement as set forth in Annex A therein, and among which are the twenty-six Units described in Schedule A herein. The Lessor will use its best efforts to cause each Unit described in Schedule A herein to be delivered to the Lessee. Upon such delivery, the Lessee will cause an inspector of the Lessee to inspect the same, and if such Unit is delivered on or prior to September 1, 1980

and if such Unit is found to be acceptable, to accept delivery of such Unit and execute and deliver to the Lessor a certificate of acceptance and delivery (hereinafter called a "Certificate of Delivery"), stating that such Unit has been inspected and accepted on behalf of the Lessee on the date of such Certificate of Delivery and is marked in accordance with § 5 hereof, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease as of the date of such delivery to the Lessee.

§ 3. Rentals. The Lessee agrees to pay or cause to be paid to the Lessor as rental for each Unit subject to this Lease two interim and 65 quarterly rental payments in advance. The interim rental payments are payable on July 1, 1980 and October 1, 1980. The 65 quarterly rental payments are payable on January 1, April 1, July 1, and October 1 in each year, commencing January 1, 1981, to and including April 1, 1997 (each date on which each such interim rental payment is payable and each such quarterly rental payment is payable being hereinafter called a "Rental Payment Date").

A. The interim rental payment due on July 1, 1980 for each Unit delivered to the Lessee on or before June 30, 1980, shall be in an amount equal to the sum of:

(i) the product of (x) the number of actual days elapsed from and including the business day (as defined in the Finance Agreement) on which the Lessee presents to the Lessor the Certificate of Delivery for such Unit (which such presentation shall, for purposes of this paragraph, be deemed to have taken place on the same business day as the delivery of such Unit) to and including June 30, 1980, times (y) \$142; plus

(ii) \$12,780 per Unit as interim rental in advance for the period commencing July 1, 1980 and ending September 30, 1980; plus

(iii) the aggregate value of the diesel fuel contained in the fuel tank of each such Unit as of the date such Unit is delivered to the Lessee.

B. The interim rental payment due on October 1, 1980 shall be in an amount equal to the sum of:

(i) For each Unit delivered to the Lessee from and including July 1, 1980 to and including September 1, 1980 the product of (x) the number of actual days elapsed from and including the business day (as defined in the Finance Agreement) on which the Lessee presents to the Lessor the Certificate of Delivery for such unit (which such presentation shall, for purposes of this paragraph, be deemed to have taken place on the same business day as the delivery of such Unit) to and including September 30, 1980, times (y) \$142; plus

(ii) \$12,780 per Unit for each Unit subject to this Lease on September 30, 1980 as interim rental in advance for the period commencing October 1, 1980 and ending December 31, 1980; plus

(iii) For each Unit for which an interim rental payment is due pursuant to clause (i) of this subsection (B), the aggregate value of the diesel fuel contained in the fuel tank of each such Unit as of the date such Unit is delivered to the Lessee.

C. The 17 quarterly rental payments from and including January 1, 1982 to and including January 1, 1985 shall each be in an amount equal to \$12,780 per Unit for each Unit subject to this Lease on each such date.

D. The next 28 quarterly rental payments, from and including April 1, 1985 to and including January 1, 1992, shall each be in an amount equal to \$11,880 per Unit for each Unit subject to this Lease on each such date.

E. The final 20 quarterly rental payments, from and including April 1, 1992 to and including January 1, 1997, shall each be in an amount equal to \$7,623 per Unit for each Unit subject to this Lease on each such date.

All payments provided for in this Lease shall be made for the account of the Lessor, in care of the Agent, by wire transfer of immediately available funds in Philadelphia; provided, however, that after the Agent shall have notified the Lessee that the Conditional Sale Indebtedness payable under the Conditional Sale Agreement shall have been paid in full, such payments shall be made directly to the Lessor.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent or additional rent, reduction thereof or setoff against rent or any other sums due or owing hereunder or payable by the Lessee to any person or entity hereunder, including, but not limited to, abatements, setoffs, reductions or recoupments due or alleged to be due by reason of any past, present or future claims or counter-claims of the Lessee against the Lessor under this Lease or the CSA against the Builder, the Owner or the Vendor or any other person or entity, provided that nothing herein

shall be deemed to impair the Lessee's right to assert and sue upon such claims in separate actions. The Lessee's obligations hereunder, including its obligations to pay all rentals, additional rentals and other amounts hereunder, shall be absolute and unconditional under any and all circumstances, and, except as otherwise expressly provided herein, this Lease shall not terminate nor shall the respective obligations of the Lessor or the Lessee be otherwise affected by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of, or any bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent per-

mitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

§ 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of the delivery to and acceptance by the Lessee of such Unit as provided in § 2 hereof and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on March 31, 1997. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 3, 6, 7, 9, 14, 16 and 21 hereof) shall survive the expiration or termination of this Lease and the full payment of all amounts payable under this Lease.

Notwithstanding anything to the contrary contained herein, all rights and obligations under this Lease and in and to the Units, upon default by the Lessee hereunder, are subject to the rights of the Vendor under the Conditional Sale Agreement. If any event of default should occur under the Conditional Sale Agreement, the Agent may terminate this Lease (or rescind its termination), all as provided therein, unless the Lessee is not in default under this Lease.

§ 5. Identification Marks. The Lessee will cause each Unit to be kept numbered with the identifying number set forth in Schedule A hereto, or in the case of any Unit not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on both sides of each Unit, in letters not less than one inch in height, the following: "Girard Trust Bank, Agent, Security Owner", or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the respective titles of the Lessor to and property interest in such Units, the Agent's Security Title (as defined in the Conditional Sale Agreement) to such Unit and the rights of the Lessor under this Lease and of the Agent under the Conditional Sale Agreement. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Agent and the Lessor owning said Unit and filed,

recorded and deposited by the Lessee in all public offices where this Lease and the Conditional Sale Agreement shall have been filed, recorded and deposited.

The Lessee, at its own expense, will make any changes in the identification marks pursuant to the instructions of the Lessor with respect to the Units to permit the Lessor to comply with the fifth paragraph of Article 14 of the Conditional Sale Agreement.

Except as provided in this § 5, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may allow the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

§ 6. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state, federal, or foreign taxes (other than any United States Federal income tax payable by the Lessor on or measured by the net income of the Lessor in consequence of the receipt of payments provided

for herein and other than the aggregate of all state or city income taxes or franchise taxes measured by net income based on such receipts, up to the amount of any such taxes which would be payable to the state and city in which the Lessor has its principal place of business) or license fees, assessments, charges, fines and penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called "Impositions") hereinafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use payment, shipment, delivery or transfer of title under the terms hereof or the Conditional Sale Agreement, all of which Impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all Impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all Impositions which might in any way affect the title of the Lessor or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any Imposition of any kind so long as it is contesting in good faith and by appropriate legal proceedings such Imposition and the nonpayment thereof does not, in the

opinion of the Lessor, adversely affect the title, property or rights of the Lessor hereunder or under the Conditional Sale Agreement. If any Imposition shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor if the Lessor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Lessor) or the Lessee shall have approved the payment thereof.

In the event that the Lessor shall become obligated to make any payment to the Builder or the Agent or otherwise pursuant to Article 6 of the Conditional Sale Agreement not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed Impositions hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said Article 6.

In the event any reports with respect to Impositions involving any Units are required to be made, the Lessee will either make such reports in such manner as to show the interests of the Lessor and the Agent in such Units or notify the Lessor and the Agent of such requirements and make such reports in such manner as shall be satisfactory to the Lessor and the Agent.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement

of any Imposition, pursuant to this § 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such Impositions are paid or reimbursed by the Lessee.

The amount which the Lessee shall be required to pay to the Lessor with respect to any Imposition which is subject to indemnification under this § 6 shall be an amount sufficient to restore the Lessor to the same position, after considering the effect of the receipt of such indemnification on its United States Federal income taxes and state and city income taxes or franchise taxes based on net income, that it would have been in had such Imposition not been imposed; provided, however, that such amount shall be based upon the reasonable opinion of the Lessor and such opinion of the Lessor is subject to agreement by Lessee. In the event of disagreement between the parties as to any payment, the parties agree to submit the calculation of such amounts to one of the eight largest public accounting firms in the United States, chosen by mutual agreement or, in the absence of agreement, to Arthur Andersen & Co. and such firm shall perform the calculation which will be binding on both parties.

§ 7. Payment for Casualty Occurrences; Risk of Loss.

In the event that any Unit shall be or become lost, stolen, destroyed, or, in the opinion of the Lessor or the Lessee, irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences

being hereinafter called "Casualty Occurrences") at any time after the delivery of such Unit to the Lessee, during the term of this Lease and any renewal thereof, the Lessee shall promptly (but in any event within 30 days after such Casualty Occurrence) and fully notify the Lessor and the Agent with respect thereto. On the Rental Payment Date next succeeding the Casualty Occurrence, the Lessee shall pay to the Lessor an amount equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with Schedule I hereto. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and the Lessee shall be vested with title to such Unit, without further transfer or action on the part of the Lessor, except that the Lessor, if requested by the Lessee, shall furnish a bill of sale or similar instrument evidencing passage of title in recordable form. The Lessee, at its own expense, will promptly furnish the Lessor a revised schedule of payments of principal and interest thereafter to be made under the Conditional Sale Agreement, in such number of counterparts as said Lessor may request, calculated as provided in Article 7 of the Conditional Sale Agreement.

The Casualty Value of each Unit as of any quarterly Rental Payment Date shall be that percentage of the

Purchase Price of such Unit as is set forth in Schedule I hereto opposite such Rental Payment Date.

The Lessee will bear the responsibility for and risk of any damage to or destruction or loss of any Unit. Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the responsibility for and the risk of, any damage or Casualty Occurrence to any Unit after delivery to the Lessee hereunder.

The Lessee hereby assigns any and all rights to receive payment in settlement for any damage to or destruction of any Unit (hereinafter called the "Settlement") to the Lessor. The Lessor hereby directs the Lessee to collect and receive such Settlement in trust for the benefit of the Lessor, and to pay promptly such Settlement over to the Lessor. The Lessor agrees to apply such Settlement, to the extent received, towards the satisfaction of the Lessee's obligation to make payment to the Lessor in respect of a Casualty Occurrence of the Unit or Units for which Settlement is made, and the Lessee shall be entitled to any excess of such Settlement over such obligation. In the event that the Lessor receives any insurance proceeds by reason of a Casualty Occurrence, it will credit such proceeds to the Lessee as a payment on account of the Casualty Value of the Units which are the subject of such Casualty Occurrence and, to the extent that

the proceeds exceed said Casualty Value to be paid by said Lessee, will remit same to the Lessee. In the event the Lessor receives any condemnation award by reason of a Casualty Occurrence, it will credit such award to the Lessee as payment on account of the Casualty Value of the Units which are the subject of such Casualty Occurrence, and the Lessor shall be entitled to retain any excess in the event the award exceeds said Casualty Value. Nothing in this paragraph shall effect Lessee's obligation to make timely payment of the Casualty Value pursuant to the first paragraph of this § 7.

§ 8. Annual Reports. On or before March 31 in each year, but in case of financial statements as promptly thereafter as possible but not later than April 30 in each such year, commencing March 31, 1980, the Lessee will furnish to the Lessor and the Agent (a) an accurate statement setting forth as of the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Conditional Sale Agreement, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Lease in the case of the first such statement) and such other information regarding the condition and state of repair of the Units as the Lessor or Agent may reasonably request; (b) an accurate statement stating that, in the case of all Units repainted or repaired during the

period covered by such statement, the numbers and the markings required by § 5 hereof and Article 9 of the Conditional Sale Agreement have been preserved or replaced; (c) a consolidated annual financial report of the Lessee prepared in accordance with generally accepted accounting principles and audited and certified by a recognized public accounting firm, which shall include, without limitation, a statement of income and retained earnings and balance sheet, all in reasonable detail and satisfactory in scope to the Lessor; (d) a certificate of an officer of the Lessee describing any event during the preceding year which constituted, or with the passage of time will constitute, an Event of Default, the actions taken, or scheduled to be taken, to correct such event and remedy the Event of Default; and (e) an opinion of counsel for the Lessee that to the best knowledge of such counsel either no additional filings of any nature are required under any federal, state or local law with respect to perfection of title to the Units in the Lessor and the Agent's Security Title (as defined in the Conditional Sale Agreement) or that all requisite filings, specifying same, have been duly made and are in full force and effect. The Lessor, and the Agent shall have the right, by their agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor or the Agent may request during the continuance of this Lease.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. THE LESSEE TAKES EACH UNIT HEREUNDER AS IS. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; and so long as an Event of Default is not continuing hereunder, the Lessor shall and does hereby irrevocably appoint and constitute the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have under the provisions of Article 13 of the Conditional Sale Agreement. The Lessee's delivery of a Certificate of Delivery to the Lessor shall be conclusive evidence as between the Lessee and the Lessor that all Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Agent, to comply, and require every user of a Unit to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its or such user's operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that such laws or rules require any alteration of any Unit, or in the event that any equipment or appliance on any such Units shall be required to be changed or replaced, or in the event that any additional or other equipment or appliance is required to be installed on any such Unit in order to comply with such laws or rules, the Lessee will make such alterations, changes, replacements and additions at its own expense; provided, however, that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Agent, adversely affect the property or rights of the

Lessor or the Agent under this Lease or under the Conditional Sale Agreement.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit in good order and repair and comply with a preventive maintenance schedule consistent with the Lessee's own preventive maintenance schedules for its owned and leased locomotives and which shall not be less comprehensive or rigorous than the preventive maintenance schedules used by other Class I line-haul railroads of comparable standing and which will include testing, repair and overhaul so that each Unit will remain (a) in as good operating condition as when delivered after the Lessee has performed "damage repairs" (as defined in the Termination Agreement) (ordinary wear and tear excepted), (b) in compliance with any and all applicable laws and regulations and eligible for railroad interchange in accordance with the rules of the American Association of Railroads, and (c) desirable to and suitable for immediate purchase or lease and use by a Class I line - haul railroad (not then or prospectively a debtor in any involvency or reorganization proceedings) in the event of resale or re-lease upon an Event of Default hereunder.

The Lessee shall make no improvements or additions (other than "damage repairs" as defined in the Termination Agreement) to any Unit other than those provided above and except communications, signal and automatic control equipment or devices

having a similar use which are owned by the Lessee and readily removable without causing material damage to the Units.

The Lessee agrees to defend, indemnify, protect and hold harmless the Lessor and the Agent and their respective successors and assigns from and against all losses, damages, injuries, liabilities, claims, demands, costs, charges and expenses in connection therewith, including, but not limited to, counsel fees and expenses, royalty payments and expenses, patent liabilities, penalties and interest arising out of or as the result of the entering into or the performance of the Conditional Sale Agreement or this Lease, the ownership of any Unit (including without limitation the retention by the Agent of Security Title to any Unit), the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, construction, storage or return of any Unit or any design, system, process, formula, combination, article or material used or contained therein or in the construction thereof or any accident in connection with the operation, use, condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person, whether as a result of negligence, the application of the laws of strict liability, or otherwise except as otherwise provided in § 14 of this Lease. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under

this Lease or the termination of this Lease. The indemnities required to be paid by the Lessee to the Lessor under this paragraph shall be of an amount sufficient to restore the Lessor to the same position, after considering the effect of the receipt of such indemnities on its United States Federal income taxes and state and city income taxes or franchise taxes based on net income that it would have been in had the indemnities not been required; provided, however, that such amount shall be based upon the reasonable opinion of the Lessor and such opinion of said Lessor is subject to agreement by Lessee. In the event of disagreement between the parties as to any payment the parties agree to submit the calculation of such amount to one of the eight largest public accounting firms in the United States, chosen by mutual agreement or, in the absence of agreement, to Arthur Andersen & Co. and such firm shall perform the calculation which will be binding on both parties.

In addition and without limiting the preceding paragraph, the Lessee agrees to defend, indemnify, protect and hold harmless the Builder and the Lessor from and against any and all all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against Builder or the Lessor because of the use in or about the construction or operation of the Units or any part thereof, of any design

specified by the Lessee and not developed or purported to be developed by the Builder, or article or material specified by the Lessee and not manufactured by the Builder, which infringes or is claimed to infringe on or which is claimed to constitute contributory infringement with respect to any patent or other right. The term "design" wherever used in this Lease or in any assignment of this Lease shall be deemed to include formulae, systems, processes and combinations.

§ 10. Default. If one or more of the following events (each such event being hereinafter sometimes called an "Event of Default") shall occur and be continuing:

A. default shall be made in payment of any part of the rental provided in § 3 hereof, in the payment of Casualty Value under § 7 hereof, in the payment of monies due under § 16 hereof or in the payment of any other monies hereunder, and such default shall continue for five days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Units, or any thereof;

C. the insurance to be maintained by the Lessee under § 21 hereof shall for any reason not remain in full force and effect as therein provided unless comparable substitute insurance satisfactory to the Lessor and the Agent shall be in force;

D. default shall be made in observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue for 25 days after written notice from the Lessor to the Lessee specifying the default and demanding that the same be remedied;

E. a petition for reorganization under Title II of the United States Code (as now or hereafter constituted), shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue), all the obligations of the Lessee under this Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees, within 60 days after such petition shall have been filed and otherwise in accordance with the provisions of 11 U.S.C. § 1168, or any successor provision, as the same may hereafter be amended; or

F. any other proceeding shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of

the Lessee hereunder, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee, or for the property of the Lessee, in connection with any such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced; Then, in any such case, the Lessor at its option, may:

(a) proceed, by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof including net after-tax

losses of Federal and state income tax benefits to which the Lessor would otherwise be entitled under this Lease;

(b) by notice in writing to the Lessee (i) terminate this Lease, or (ii) terminate the Lessee's interest in the Lease, and then terminate the Lessee's interest in the Units through the exercise of its rights under § 11 hereof to obtain possession of the Units from the Lessee and await the election of the Builder on or before the Election Date as that term is defined in the Guaranty Agreement with respect to the Lessor's assignment and the Builder's (or the Substitute Lessee's, as defined in the Guaranty Agreement) assumption, effective as of the occurrence of the Event of Default, of all of the Lessee's obligations and interests under this Lease with the exception of any obligations which arise solely by reason of events which have occurred prior to the effective date of such assignment to and assumption by the Builder (or the Substitute Lessee); whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, and enjoy the same free from any right

of the Lessee, or its successors, or assigns, to use the Units for any purpose whatever. The Lessor shall, nonetheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is 90) and also to recover from the Lessee as liquidated damages and not as a penalty (1) that percentage of the Purchase Price of the Units as is set forth on Schedule I hereto opposite the last quarterly period with respect to which the lease rental was paid by the Lessee under this Lease, plus interest at the rate of 13% per annum from the date of the Event of Default to the date of payment thereof less (2) the total net proceeds, if any, paid to Vendor and Vendee (as defined in the Conditional Sale Agreement) following any sale of the Units under the Conditional Sale Agreement or, if there has been no sale, the fair market value of the Units on the date of the Declaration of Default (as defined in the Conditional Sale Agreement) said fair market value to be determined by agreement of the parties, including any assignee of this Lease, or, in the event agreement cannot be reached, in the same manner as set forth in § 13 hereof plus (3) any expenses, including

reasonable attorney's fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental; provided, however, that in the event that sale of any Unit is prevented by the order of a court of competent jurisdiction or by any other governmental action, no reduction in the amount owing shall be made until such time as the Vendor (as defined in the Conditional Sale Agreement) receives any "income or proceeds of the Units" as that term is defined in the Conditional Sale Agreement. The amount payable under (1) less (2) shall be paid by the Lessee to the Lessor within 30 days after the date on which such amount is agreed upon or determined hereunder and the amounts payable under (3) shall be payable promptly by the Lessee to the Lessor upon receipt of invoice or invoices therefor.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees

to make rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

Failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

Any termination of this Lease or of the Lessee's interest in the Equipment and this Lease shall be subject to any rights of the Vendor to affect such termination and the status of the parties hereto.

§ 11. Return of Units Upon Default. If this Lease or the Lessee's interest herein shall terminate pursuant to § 10 hereof, the Lessor may take, or cause to be taken or demand from the Lessee, immediate possession of the Equipment, or one or more of the Units thereof, and may remove the same from possession and use of the Lessee. For such purpose, the Lessor may enter upon the premises of the Lessee or any other premises where the Units may be located and may use and employ in connection with such removal any supplies, services and aids, including but not limited to diesel fuel or other necessary petroleum products, and any available trackage and other facilities or means of the Lessee, with or without process of law.

In case the Vendor (as defined in the Conditional Sale Agreement) shall demand possession of the Units pursuant to the Conditional Sale Agreement and shall designate a reasonable point or points on the lines or premises of the Lessee for the delivery of the Units to said Vendor, the Lessee shall at its own cost, expense and risk, forthwith and in the usual manner, cause the Units to be moved to such point or points on lines of the Lessee and shall there deliver the Units or cause them to be delivered to said Vendor. At the option of said Vendor, said Vendor may keep the Units on any of the lines or premises of the Lessee for a period of one year or until said Vendor shall have leased, sold or otherwise disposed of the same, whichever first occurs, and for such purpose, the Lessee agrees to furnish, without charge for rent, insurance or storage, the necessary facilities at any point or points selected by said Vendor reasonably convenient to the Lessee.

Subject to the rights of the Vendor in the preceding paragraph, in case the Lessor shall demand possession of the Units pursuant to this paragraph and shall designate a reasonable point or points on the lines or premises of the Lessee (or on those of its affiliates or on those of any connecting carriers for shipment) for the delivery of the Units to the Lessor, the Lessee shall at its own cost, expense and risk, forthwith and in usual manner, cause

the Units to be moved to such point or points on its lines (or on those of its affiliates or to those of any connecting carriers for shipment) and shall there deliver the Units or cause them to be delivered to the Lessor. At the option of the Lessor, the Lessor may keep the Units on any of the lines or premises of the Lessee for a period of one year until the Lessor shall have leased, sold or otherwise disposed of the same, whichever first occurs, and for such purpose, the Lessee agrees to furnish, without charge for rent, storage or insurance the necessary facilities at any point or points selected by the Lessor and reasonably convenient to the Lessee. The assembling, delivery, storage and transportation of the Units as herein provided shall be at the cost, expense and risk of the Lessee. During any storage period, the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser, including the Vendor or an authorized representative thereof, or lessee of any such Unit, to inspect the same; provided, however, that the Lessee shall not be liable except in the case of the negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising the rights of inspection granted under this § 11.

All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the

Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Lessor as agent and attorney of the Lessee with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time. This agreement to deliver the Units, furnish facilities, and pay costs as hereinbefore provided is of the essence of the agreement between the parties, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance hereof.

The Lessee hereby expressly waives any and all claims against the Lessor and its assigns or agents and any and all claims against the Vendor (as defined in the Conditional Sale Agreement) and its assigns or agents for damages of whatever nature in connection with the retaking of any Unit of the Equipment in any reasonable manner.

§ 12. Assignment; Prohibition Against Liens; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the

Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder shall inure to the benefit of the Lessor's assigns. Whenever the term Lessor is used in this Lease it shall include the assignees of the Lessor.

Upon any such assignment, the assignor shall give written notice to the Lessee together with a counterpart copy of such assignment, stating the identity and Post Office address of the assignee.

So long as no Event of Default exists under this Lease, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease but, without the prior written consent of the Lessor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them except as hereinafter provided in this § 12. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance resulting from claims against the Lessor or the Agent not related to the ownership of the Units) upon or with respect to any Unit, including any accession thereto, or any part thereof or the interest of the Lessor, the Agent or the Lessee therein, and will promptly discharge any such

lien, claim, security interest or other encumbrance which arises; provided, however, that the Lessee shall be under no obligation to pay or discharge such claims so long as it is contesting the validity thereof in good faith in a reasonable manner and by appropriate legal proceedings and the nonpayment thereof does not, in the opinion of the Lessor adversely affect the title, property or rights of the Lessor hereunder or under the Conditional Sale Agreement or the title, property or rights of the Agent in or to the Units under the Conditional Sale Agreement. If any such claim shall have been charged or levied by anyone and in any manner against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor, provided that the Lessor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Lessor) or the Lessee shall have approved the payment thereof. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of or suffer or allow to pass out of its possession or control, any of such Units, except to the extent permitted by this § 12.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Units and to the use of the Units by it or any of its affiliates upon lines of railroad owned or operated

by it or any such affiliate or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee, or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units by connecting and other carriers in the usual interchange of traffic or in the transportation thereof from the place of delivery to the Lessee but only upon and subject to all the terms and conditions of this Lease and the Conditional Sale Agreement; provided, however, that the Lessee (a) shall not use or permit the use of any Unit in service involving the regular operation and maintenance thereof outside the United States of America, (b) shall not at any time permit more than 30% of the Units to be located outside of the United States of America, and (c) shall in any event not use the Units in such manner as will cause any one or more of such Units to be viewed as property "used outside the United States" pursuant to Treas. Reg. § 1.48-1(g). The Lessee may receive and retain compensation from other railroads for use in compliance with the next preceding sentence.

The rights of Lessee under this Lease may not be assigned by the Lessee, except that, with the prior written consent of the Lessor and the Agent, at the sole and absolute discretion of the Agent, the Lessee may assign all of its rights under this Lease to a third party of reliable standing with

the financial community which shall have duly assumed the Lessee's obligations hereunder. The obligations of the Lessee hereunder shall terminate upon the assignment of the Lessee's rights and obligations pursuant to this paragraph except as to obligations and and claims arising prior to such assignment.

The Lessee agrees that at all times during the term of this Lease, the Units will be used in a manner so as to constitute rolling stock of a domestic railroad corporation subject to Part I of the Interstate Commerce Act (or any successor provision) within the meaning of Section 48(a)(2)(B)(ii) of the Code (as hereinafter defined). The Lessor agrees that it will not sublease the Units to, or permit their use by, any person in whose hands such Units would not qualify as "Section 38 property" within the meaning of the Code.

§13. Renewal Options. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may, by written notice delivered to the Lessor not less than one year prior to the end of the term of this Lease, state that he intends to elect (a) to extend the term of the Lease on the same terms and conditions contained herein except as otherwise provided in this § 13 in respect to all, but not fewer than all, the Units covered by this Lease for a period of not less

than one (1) year commencing on the scheduled expiration of the original term, at a rental payable in advance in quarterly payments, each in an amount equal to the Fair Market Rental, as hereinafter defined, such quarterly payments to be made January 1, April 1, July 1 and October 1 in each year of the extended term and with a Casualty Value payment schedule to be negotiated by the Lessee and the Lessor or (b) to purchase all, but not fewer than all, the Units covered by this Lease at the end of such term of this Lease for a purchase price equal to the Fair Market Value as defined hereinafter of such Units as of the end of such term. The election need not be made until the determination of the Fair Market Value and Rental as set forth hereinafter, but in no case will it be made less than four months prior to the end of the term of this Lease.

In the event that the Lessee exercises its option to extend the initial term of the Lease and provided that this Lease, as extended, has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may, by written notice delivered to the Lessor not less than one year prior to the end of the extended term of this Lease, state that he intends to elect to purchase all, but not fewer than all, the Units covered by this Lease at the end of such term of the Lease for a purchase price equal to the Fair Market Value as defined hereinafter of such Units as

of the end of such term. The election need not be made until the determination of the Fair Market Value as set forth hereinafter, but in no case will it be made less than four months prior to the end of the term of this Lease.

Fair Market Value and Fair Market Rental shall be determined as soon as feasible upon receipt by the Lessor of notice of the Lessee's aforementioned intention to elect and on the basis of, and shall be equal to, the value which would obtain in an arm's-length transaction between an informed and willing buyer-user or lessee (other than (i) a lessee currently in possession and (ii) a used equipment dealer), and an informed and willing seller or lessor under no compulsion to sell or lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. If, on or before six months prior to the expiration of the term of this Lease or renewal term, as the case may be, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Value and the Fair Market Rental of the Units, such value shall be determined in accordance with the foregoing definition by three qualified independent appraisers, one of whom shall be appointed by Lessor and the other by the Lessee and the two appraisers so chosen shall select a third appraiser and they shall render their appraisal within 30 days of the appointment of the third appraiser and such appraisal shall be final and conclusive

between the parties. In case either of the parties shall fail or refuse to appoint an appraiser for a period of ten days after written notice is given by the other party to make such appointment, the appraiser appointed by the party having given notice to make such an appointment shall appoint a like qualified and disinterested appraiser for the defaulting party and the said two appraisers, so appointed, shall select a third appraiser and they shall render their appraisal within 30 days and such appraisal shall be final and conclusive upon the parties. In any case where two appraisers are to appoint a third and cannot agree within thirty days after the appointment of the second appraiser, the third appraiser shall be appointed, upon the application of either party, by the American Arbitration Association. If any appraiser shall decline or fail to act, the party originally having chosen such appraiser or the American Arbitration Association, as the case may be, shall appoint another to act in his place. The expenses and fees of all appraisers hereunder shall be borne and paid for by the Lessee.

In the event the Lessee elects to purchase the Equipment, upon payment of the purchase price, the Lessor shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without representations or warranties except that such Units are free and clear of any person claiming by, through or

under the Lessor) for such Units, and such other documents as may be required to release such Units from the terms and scope of this Lease and to transfer title thereto to the Lessee or such assignee or nominee, in such form as may reasonably be requested by the Lessee, all at the Lessee's expense.

§ 14. Return of Units upon Expiration of Term. As soon as practicable on or after the expiration of the term of this Lease with respect to any Unit, the Lessee will (unless the Unit is released to or purchased by the Lessee), at its own cost and expense, at the request of the Lessor deliver possession of such Unit to the Lessor upon such storage tracks of the Lessee as the Lessor may reasonably designate, or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding three months and transport the same, at any time within such three-month period, to any reasonable place on the lines of railroad operated by the Lessee, or to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Unit to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Unit, to inspect the same; provided, however, that the Lessee shall not be

liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The movement, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to move, deliver, store and transport the Units.

The Lessee shall return the Units upon the termination of the initial term or any extended term of this Lease in the same operating order, repair and condition as when originally delivered hereunder (after damage repairs as defined in the Termination Agreement had been performed by the Lessee), ordinary wear and tear excepted.

§ 15. Lessee's Warranties and Representations. The Lessee warrants and represents as follows:

A. The Lease, and the acknowledgement to the Lease Assignment have been duly executed and delivered by the Lessee and constitute valid, legal and binding obligations of the Lessee, enforceable in accordance with their terms.

B. Neither the execution and delivery of this Lease or the acknowledgement to the Lease Assignment nor the

consummation of the transaction herein and therein contemplated or the fulfillment of, or compliance with, the terms and provisions hereof and thereof by the Lessee will conflict with, or result in a breach of, any of the terms, conditions or provisions of any bond, debenture, note, mortgage, indenture, contract or other agreement or instrument to which the Lessee is a party or by which it or its property is bound or will constitute, with the giving of notice or the passage of time or both, a default hereunder or thereunder or will conflict with, or result in a breach of any of the terms, conditions or provisions of any law, regulation, order, judgment or decree of any court or governmental instrumentality.

C. No approval, order or license of the Interstate Commerce Commission or any other governmental authority, federal, state or local, is necessary in order for the Lessor to enter into this Lease or the Lease Assignment or to perform its duties or obligations hereunder or thereunder or such approval as is necessary has been granted and the execution and delivery by the Lessor of such agreements and the performance by it of its obligations thereunder and its ownership of the Units do not subject the Lessor to the jurisdiction of or regulation by, the Interstate Commerce Commission or any other regulatory authority, federal, state or local and in the event that any such approval, order or license is so necessary or that such execution and delivery

or performance does so subject the Lessor to any such jurisdiction or regulation solely as a result of the Lessor's ownership of the Units, the Lessee shall not operate or otherwise utilize the affected Units in any and all jurisdictions for which the Lessor shall become subject to such jurisdiction or regulation until the Lessee shall have either (i) obtained such approvals, orders or waivers thereof or waivers of all such jurisdiction or regulation from the applicable federal, state or local regulatory authority, as the case may be, or (ii) in form and substance satisfactory to the Lessor, indemnified the Lessor from and against any and all claims, liabilities, penalties or damages of any nature which might arise and/or result from the continued operations of the Unit or Units in any and all such jurisdictions, except for claims, liabilities, penalties or damages arising from acts or omissions of the Lessor.

D. The Lessee has the full power and authority and legal right to carry on its principal business as now conducted.

E. There are no actions, suits or proceedings pending or threatened which, if adversely determined against the Lessee, will materially prevent or interfere with its ability or right to perform its duties and obligations under this Lease and the acknowledgement to the Lease Assignment.

F. The Lessee has not directly or indirectly taken any action and will not take any action the effect of which will

bring the sale of the Conditional Sale Indebtedness under the Conditional Sale Agreement or the investment by the Vendee in the Units within the provisions of Section 5 of the Securities Act of 1933, as amended. The Lessee has not offered any rights, claims or indebtedness under the Conditional Sale Agreement or ownership interests in the Units (or any securities similar to any of the foregoing) to, or has solicited any offer to buy any thereof from, any person other than the Vendee and the Investors. The Lessee makes no representations as to activities by Radnor Associates, Ltd.

G. The Lessee has furnished to the Investors and the Lessor a consolidated balance sheet, prepared utilizing generally accepted accounting principles, of the Lessee as of December 31, 1979, a related consolidated income statement (income and retained earnings), and an ICC CBS statement (condensed balance sheet) as of December 31, 1979, together with an income statement for the 12 months then ended, both prepared in accordance with the rules of the Interstate Commerce Commission. Such financial statements are in accordance with the books and records of the Lessee and have been prepared in accordance with the respectively applicable accounting principles on a consistent basis throughout the periods covered thereby, and such financial statements fairly present the financial condition of the Lessee at such dates and the results of its operations for such periods. Since

December 31, 1979, there have been no changes which, individually or in the aggregate, have been materially adverse to the condition, financial or otherwise, of the Lessee as shown on the balance sheet as of such date, except changes in the ordinary course of business.

H. As of the date hereof, the Lessee has not directly or indirectly taken any action which would adversely affect the good and marketable title of the Lessor to the Units including, without limitation, any action which would create or result in the creation of any liens, encumbrances and claims of any nature whatsoever against the Units, except only for the rights of the Lessee under this Lease.

I. As of the date hereof, the Units are free from all claims, liens, security interests and other encumbrances arising at any time on or after the Lessee has accepted delivery of such Units pursuant to § 2 of this Lease other than those created by the Conditional Sale Agreement and any other related documents, the rights of the Lessee under this Lease, and other than those resulting from claims against the Lessor not related to the ownership of the Units.

J. This Lease and the Lease Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and no other filing or recordation is necessary for the

protection of the rights of the Assignee in any state of the United States of America or in the District of Columbia.

§ 16. Tax Indemnities.

A. It is the intent of the Lessor and Lessee that this Lease will be recognized as a lease for all Federal, state and local income taxes or franchise taxes imposed on or measured by net income, and that this Lease does not convey to the Lessee any right, title or interest in the Units except as lessee and that for Federal income tax purposes (and to the extent applicable for state and local tax purposes), the Lessor as the beneficial owner of the Units purchased by it shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the "Code"), to an owner of property including (without limitation) the maximum depreciation deduction with respect to the Units authorized under section 167 of the Code based on the aggregate Purchase Price of the Units purchased by the Lessor utilizing the 12-year depreciable life prescribed for the Units in the Asset Guideline Class No. 00.25 in accordance with section 167(m) of the Code employing the more favorable first year convention with the double declining balance method of depreciation, switching to the sum of the years-digits method when most beneficial to the Lessor [without taking into account the salvage value of the Units

until the Units have been depreciated to a salvage value that is not greater than 10% of their basis to the Lessor (said 10% being based upon an estimated gross salvage value of 20% of the basis of the Units which will be reduced by 10% of such basis as provided in section 167(f) of the Code)] (such deduction being herein called the ADR Deductions), deductions with respect to interest payable under the Conditional Sale Agreement pursuant to section 163 of the Code (such deductions being herein called the Interest Deduction), and the 10% investment credit (herein called the Investment Credit) with respect to the aggregate Purchase Price of the Units pursuant to section 38 and related sections of the Code.

B. The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing or which would increase the amount of rentals required to be taken into income by the Lessor over the amount specified to be payable under this Lease on the dates due thereunder, except as specifically provided in the Lease or hereunder, and that each of such corporations will file such returns, take such actions and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent hereof. The

Lessee agrees to keep and make available for inspection and copying by the Lessor such records as will enable the Lessor to determine the extent to which it is entitled to the benefit of the Investment Credit and the ADR Deduction with respect to the Units.

C. The Lessee represents, covenants and warrants that (i) at all times during the term of this Lease each Unit will constitute "section 38 property" within the meaning of section 48(a) of the Code and the Lessee will not at any time during the term of the Lease use or fail to use any Unit in such a way as to disqualify it as "section 38 property" within the meaning of section 48(a) of the Code; and (ii) the Lessee will maintain sufficient records to verify such use, which records will be furnished to the Lessor within 30 days after receipt of a written demand therefor.

If by reason of the inaccuracy in law or in fact of the representations and warranties set forth in the preceding paragraph or any act or omission of the Lessee (including, but not limited to, the failure of the Lessee to furnish the notice to the Lessor contemplated by paragraph N of this § 16 or any inaccuracy in such notice), or for any other reason (other than a change in the Code or the adoption of or a change in any state or local taxing authority tax laws occurring after the date of delivery of the Units under this Lease), the Lessor shall lose, or

shall not have, or shall lose the right to claim or utilize effectively (including by recharacterization of the source of income), or shall suffer a disallowance of or shall be required to recapture all or any portion of the Investment Credit, the ADR Deduction, or the Interest Deduction with respect to all or part of any Unit (any such loss, disallowance, recapture or treatment being hereinafter called a "Loss"), then, unless the Lessee shall exercise its option pursuant to the proviso contained in this paragraph, the Lessee shall, beginning with the next succeeding rental payment date after written notice is given to the Lessee by the Lessor of such fact, and on each succeeding rental payment date, pay to the Lessor such amount or amounts as shall, in the reasonable opinion of said Lessor and agreed to by the Lessee, cause the Lessor's net return to equal the net return that would have been realized by the Lessor if such Loss had not occurred, and the Lessee shall forthwith pay to the Lessor the amount of any interest, additions to tax and/or penalties which may be assessed by the United States of America or any state or local taxing authority against the Lessor attributable to such Loss; provided, however, that in the event of any Loss of the Investment Credit, the Lessee may, in lieu of making the payments as hereinabove provided, at its option, pay to the Lessor on the next succeeding rental payment date after written notice is given to the Lessee by the Lessor of

the fact of such Loss, a single payment in an amount as shall, in the reasonable opinion of Lessor and agreed to by the Lessee, cause said Lessor's net return to equal the net return that would have been realized by the Lessor if such Loss had not occurred, together with payment of an amount equal to any interest and/or penalties which may be assessed by the United States of America or any state or local taxing authority against the Lessor attributable to such Loss.

D. Notwithstanding the other provisions of this § 16, payment shall not be required to be made by the Lessee to the extent that the Lessor shall have suffered such Loss with respect to all or part of such Unit solely as a direct result of the occurrence of any of the following events:

(i) a Casualty Occurrence with respect to such Unit or the termination of the Lease pursuant to § 7 of this Lease, if the Lessee shall have paid to the Lessor the amounts stipulated under § 7 hereof;

(ii) a voluntary transfer or other voluntary disposition by the Lessor of any interest in such Unit, or the voluntary reduction by the Lessor of its interest in the rentals from such Unit under the Lease (other than pursuant to the assignment of the Lease to the Vendor), unless, in each case, an Event of Default shall have occurred and be continuing under this Lease or the Lessee shall have failed to make any

payments when due under this § 16 and such failure shall continue for 25 days after written notice from the Lessor to the Lessee specifying such failure and demanding that the same be remedied; provided, however, that the execution and delivery of the Lease and other documents referred to therein and the carrying out of the transactions contemplated therein in accordance with the terms thereof shall not be deemed to be a transfer or disposition under this clause (ii);

(iii) the failure of the Lessor to claim in a timely or proper manner the Investment Credit, the ADR Deduction or the Interest Deduction unless the Lessor shall have been advised by Messrs. Donovan Leisure Newton & Irvine or other independent tax counsel selected by the Lessor and approved by the Lessee (which approval shall not be unreasonably withheld) that there is no reasonable basis for claiming any such credit or deduction;

(iv) the failure of the Lessor to have sufficient liability for Federal, state or local income tax against which to credit all such Investment Credit or sufficient domestic source (as opposed to foreign source) taxable income (before taking into account the ADR Deduction or the Interest Deduction) to benefit in full from the ADR Deduction or the Interest Deduction, as applicable (the failure to have sufficient foreign source, as opposed to

domestic source, taxable income not being a failure to have sufficient taxable income for purposes of this subsection);

(v) the failure of the Lessor to timely contest a claim with respect to its income tax liability which, if successful, would under this § 16 lead to increased rental payments or a lump sum payment by the Lessee, after having given the prompt notice (as defined in paragraph G hereof) to the Lessee and after having received a timely written request from the Lessee, as hereinafter provided for in this § 16, to contest such claim unless the Lessor shall have been advised by Messrs. Donovan Leisure Newton & Irvine or other independent tax counsel selected by the Lessor and approved by the Lessee (which approval shall not be unreasonably withheld) that there is no reasonable basis for claiming any such credit or deduction;

(vi) any other voluntary act or omission by the Lessor not contemplated or permitted by this Lease, the Conditional Sale Agreement, the Lease Assignment, the Purchase Agreement Assignment or the Guaranty Agreement; or

Notwithstanding any other provision of this § 16 or any provision in any other document, the indemnities of the Lessee contained in this § 16

run solely to the Lessor and not to any real or purported assignee or transferee of the Lessor where such assignment or transfer results in a taxable transaction.

E. If the deductions, credits or other benefits to which the Lessor is entitled are increased or decreased by a change in law (other than a change in income tax rates) that is effective prior to the delivery of the Units which are affected by the change, the rental and Casualty Value under the Lease shall be adjusted appropriately by agreement of the Lessor and the Lessee so that the Lessor's net return shall not be increased or decreased by reason of such change.

F. In the event that payments are required of the Lessee under this § 16, the Casualty Values set forth in Schedule I of this Lease shall be increased or decreased accordingly for the purposes of this § 16 and, upon the subsequent occurrence of a Casualty Occurrence under the Lease, the Lessee shall pay under this § 16 any increase, or be credited with any decrease in such Casualty Values and paid the amount of such decrease by the Lessor promptly after and to the extent of receipt by the Lessor from the Agent of the portion of any Casualty Value paid by the Lessee as a result of such Casualty Occurrence under the Lease; provided, however, that in no event shall such Casualty Values be reduced below the amount required to be paid to

the Agent under Article 7 of the Conditional Sale Agreement in the event of a Casualty Occurrence thereunder.

G. If a claim shall be made by the Internal Revenue Service or any state or local taxing authority with respect to the income tax liability of the Lessor which, if successful, would under this § 16 lead to payments by the Lessee or a lump sum payment by the Lessee, the Lessor (as a precondition to receiving any such payments) shall give prompt notice of such claim to the Lessee and shall take such action to contest such claim as the Lessee shall reasonably request in writing from time to time, provided that within 30 days after notice by the Lessor of such proposed adjustment, the Lessee shall request that such adjustment be contested; and further provided that an Event of Default shall not be continuing under this Lease and the Lessee shall not have failed to make any payments when due under this § 16, which failure shall have continued for 25 days after written notice from the Lessor to the Lessee specifying such failure and demanding that the same be remedied. For purposes of this paragraph, "prompt notice" shall mean written notice to the Lessee not less than 30 days before the expiration of the time period for initiating a contest of such claim. The Lessor may in its discretion forego any administrative appeal with the Internal Revenue Service in respect of such claim and the Lessor may, at its option, either pay the tax claimed and sue for refund in the

appropriate United States District Court or in the United States Court of Claims, as the Lessor may elect, or contest such claim in the United States Tax Court, considering, however, in good faith such request as the Lessee may make concerning the most appropriate forum in which to proceed; provided, however, that the final decision as to selection of the forum and matter of contest shall be solely that of the Lessor. If the Lessor pays the tax claimed and sues for refund, payments by the Lessee shall be required so as to maintain the Lessor's net return in the manner and to the extent provided in this § 16, and the Lessee shall forthwith pay to the Lessor the amount of any interest and/or penalty assessed against the Lessor with respect to such additional income tax; provided, however, that the Lessee shall not be required to make any such payments unless the Lessor agrees in writing to apply any refund in accordance with the next following sentence. If the Lessor receives a refund as a result of contesting such claim, the Lessor shall forthwith pay to the Lessee any interest thereon paid by the taxing jurisdiction together with the appropriate amount of any interest and/or penalty payments which should not have been assessed against and paid by the Lessee to the Lessor pursuant to the preceding sentence, and the payments of the Lessee with respect to such claim shall, beginning with the next rental payment due after receipt by the Lessor of such refund,

be decreased to such amount or amounts as shall, in the reasonable opinion of the Lessor and agreed to by the Lessee, cause the Lessor's net return over the term of this Lease to equal the net return that would have been realized by the Lessor if additional income taxes of the Lessor in the amount refunded had not been paid but not below the amounts required to satisfy the obligations of the Lessor under the Conditional Sale Agreement. Any such contest shall be at the sole expense of the Lessee and the Lessee agrees to pay to the Lessor on demand any expense incurred by the Lessor in connection with such contest; and the Lessor shall have no obligation to continue such contest in the event the Lessee fails to make such payment within 10 days after written demand.

H. The Lessee's and Lessor's agreement to pay any sums which may become payable pursuant to this § 16 shall survive the expiration or other termination of this Lease or the Lessee's interest therein; and the Lessee's obligations hereunder may be assigned as provided and under the same terms set forth in the last paragraph of § 12 of this Lease.

I. In the event and to the extent that the cost of any improvement and/or addition (hereinafter called Capital Expenditures) to a Unit made by the Lessee, under and pursuant to the terms of this Lease or otherwise, is required to be included in the gross income of the Lessor for Federal, state

or local income tax purposes at any time prior to the time such Unit is disposed of in a taxable transaction, then the Lessee shall, beginning with the next succeeding Rental Payment Date after the date on which the Lessee is required to furnish written notice thereof to the Lessor pursuant to paragraph N of this § 16 after said inclusion in the Lessor's gross income is required, and on each succeeding Rental Payment Date, pay to the Lessor such amount or amounts as shall, in the reasonable opinion of the Lessor and agreed to by the Lessee, after taking into account any present or future tax benefits that the Lessor reasonably anticipates it will derive from its additional investment in the Units (including without limitation any available current deduction and investment tax credit) cause the Lessor's net return to equal the net return that would have been realized by the Lessor if the cost of such Capital Expenditures had not been includible in the Lessor's gross income; provided, however, that the Lessee shall not be required to make any such payments unless the Lessor agrees in writing to contest such inclusion if requested in writing by the Lessee and as provided in paragraphs G and J of this § 16 and provided further that the loss of such tax benefits shall be treated as a loss for purposes of this § 16; provided further, however, that the loss of any of such tax benefits shall be treated as a loss for purposes of this § 16.

In determining the present or future tax benefits to be taken into account by the Lessor in establishing the payments required hereby, the Lessor shall attempt to maximize such benefits and hence minimize those payments by making such elections (including where advantageous the applicable asset guideline repair allowance and accelerated depreciation, if then permitted) and utilizing such conventions and accounting methods as will further such objectives; provided, however, that the Lessor shall not be required to make any election or utilize a particular convention or accounting method if the Lessor determines, in its sole discretion but in good faith, that in so doing it will adversely affect its Federal, state or local income tax liability determined without regard to this transaction.

For the purposes of this § 16 the cost of Capital Expenditures made by the Lessee shall be deemed to be "required to be included in the gross income of the Lessor for Federal, state or local income tax purposes" if such inclusion is required by (i) any provision of the Code or state or local income tax law or the applicable regulations enacted or adopted thereunder as of the date of this Lease; or (ii) any published revenue ruling of the Internal Revenue Service, or any state or local income taxing authority issued as of the date of this Lease which has not been held invalid by a court having appellate jurisdiction over the

Federal, state or local income tax liability of the Lessor in a decision which has become final.

J. The Lessor shall not be required to contest a claim made by the Internal Revenue Service or any state or local income taxing authority with respect to the includability of the cost of any Capital Expenditure in the Lessor's gross income unless the Lessor has received an opinion from counsel selected by the Lessee and acceptable to the Lessor that there is a reasonable basis for contesting such inclusion.

K. The Lessee agrees to make a payment to the Lessor for any interest, additions to tax and/or penalties resulting from the failure to include the cost of Capital Expenditures in its income tax return, such payment to be made upon demand in amount sufficient to restore the Lessor to the same position it would have been in had such interest and/or penalties not been imposed; and such amount shall be determined in the reasonable opinion of said Lessor and agreed to by the Lessee.

L. The Lessor and Lessee agree that wherever in this § 16 payments are to be paid by Lessee to the Lessor based upon the reasonable opinion of the Lessor and such opinion of the Lessor is subject to agreement by Lessee, in the event of disagreement between the parties as to any payment the parties agree to submit the calculation of such amounts within 10 days to one of the eight largest public

accounting firms in the United States, chosen by mutual agreement or, in the absence of agreement to Arthur Anderson & Co. and such firm shall perform the calculation which will be binding on both parties.

M. Notwithstanding anything herein to the contrary, in the event that a payment or payments are required to be made to the Lessor pursuant to this § 16, if the total payments paid and payable by the Lessee under this Lease, after giving effect to any increases under this § 16, shall be increased by more than 10% from the amount which would have been payable had this § 16 not be applicable and if Lessee is not in default under this Lease and the Lessee shall not have failed to make any payments when due under this § 16, which failure shall have continued for 25 days after written notice from the Lessor to the Lessee specifying such failure and demanding that the same be remedied, the Lessee will have the option, after making all payments which are then required under this § 16, to purchase all of such Units then subject to this Lease from the Lessor at their then Fair Market Value (such Fair Market Value to be determined on the basis of and to be equal to the value which would be obtained in an arm's-length transaction between an informed and willing buyer-user, other than either a lessee currently in possession or a used equipment dealer, and an informed and willing seller under no compulsion to sell and otherwise utilizing the procedures

in § 13 of this Lease for this determination) or at the applicable amount according to Schedule I of this Lease (as adjusted pursuant to paragraph F of this § 16) on the date of such purchase, whichever is greater, provided, that if such purchase is made subject to the lien of the Agent or any other party on the Units, the purchase price payable to the Lessor shall be reduced to reflect the amount of such outstanding lien.

N. The Lessee agrees that, within 30 days after the close of any calendar year (or, in the event that the Lessor gives the Lessee written notice that the Lessor's taxable year closes on a date specified therein other than December 31, within 30 days after said date) in which the the Lessee had made Capital Expenditures which are of a type or which the Lessee believes are of a type, or are of a type which the Lessee has been advised by the Lessor may be of a type, required to be included in the gross income of the Lessor for Federal, state or local income tax purposes prior to the time such Unit is disposed of in a taxable transaction, the Lessee will give written notice thereof to the Lessor describing such Capital Expenditures in reasonable detail and specifying the cost thereof with respect to each Unit.

O. Anything to the contrary contained herein notwithstanding, any nonpayment of any obligation due under this § 16, whether or not subject to paragraph L of this § 16 or

any other provision of this Lease or any other agreement, shall result in the additional obligation on the part of the obligor promptly to pay to the extent legally enforceable, interest at the rate of 13% per annum for the period of time which the obligation is overdue or, if such rate is not legally enforceable, then at the highest legally enforceable rate.

§ 17. Recording; Expenses. The Lessee will cause this Lease and any assignment hereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, and to be deposited in the office of the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada (and notice of such deposit to be given forthwith in The Canada Gazette). The Lessee will undertake the filing, registering, depositing, and recording required of the Lessor under the Conditional Sale Agreement and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, re-register, deposit and redeposit or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Agent for the purpose of proper protection, to their satisfaction, of the Agent's and the Lessor's respective interest in the Units, or for the purpose of carrying out the intention of this Lease, the Conditional Sale Agreement or the assignment thereof to the Agent; and the Lessee will promptly furnish

to the Agent and the Lessor evidences of all such filings, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Agent and the Lessor.

§ 18. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, as additional rental, to the extent legally enforceable, an amount on the overdue rentals and other obligations for the period of time they are overdue at a rate of 13% per annum, or, if such rate is not legally enforceable, then at the highest legally enforceable rate.

§ 19. Notices. Any notice required or permitted to be given herein shall be deemed to have been given when deposited in the United States certified mails, first-class postage pre-paid, addressed as follows:

(a) if to the Lessor:

Equilease Corporation
750 Third Ave.
New York, New York 10017

Attn: Treasurer

(b) if to the Lessee:

210 North 13th Street
St. Louis, Missouri 63101

(c) if to the Agent:

Three Girard Plaza
Third Floor
Philadelphia, Pennsylvania 19101

Attn: H. E. Ikeler, Jr.
Vice President
Corporate Trust Department.

or addressed to such other address as the Lessor, the Lessee or the Agent shall hereafter furnish to the others in writing.

§ 20. Severability; Effect and Modification of Lease.

Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease including the Schedules attached hereto completely states the rights of the Lessor and the Lessee with respect to the Units and supersedes all other agreements, oral or written, with respect to the Units. No variation

or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Lessor and of the Lessee or its duly authorized representative and consented to in writing by the Agent.

§ 21. Insurance. The Lessee will at all times after delivery of each Unit of Equipment, during the term of this Lease and any renewal thereof (and thereafter during the three (3) month period in which the Units are being assembled and delivered to the locations specified in § 14 hereof), at its own expense, keep or cause to be kept each such Unit insured, either by a reputable insurance company or companies or by self insurance, against loss and destruction of, and damage to any Unit arising out of fire, windstorm, explosion, and all other hazards and risks ordinarily subject to extended coverage insurance, and against such other hazards and risks as are customarily insured against by companies owning or leasing property of a similar character and engaged in a business similar to that engaged in by the Lessee. Any insurance policy shall provide that the Lessor, the Lessee and the Agent shall be assureds, that losses shall be adjusted with the Lessee and that the proceeds thereof shall be payable to the Lessor, the Agent and the Lessee as their interests shall appear. Any such policy shall provide that the same

shall not be cancelled or changed without at least 30 days prior written notice to each assured named therein, and shall insure the interest of the Lessor and the Agent regardless of any breach or violation by the Lessee of warranties, declarations or conditions contained in such policy. Any such insurance policy shall also provide that upon receipt by the insurer from the Lessor or the Agent of any written notice of the occurrence of an Event of Default under this Lease, any proceeds payable by such insurer with respect to any loss or destruction of, or damage to, any Unit, shall be payable solely to the Agent (or the Lessor after payment of all outstanding Conditional Sale Indebtedness) from the date of the insurer's receipt of such written notice up to the date the insurer receives written notice from the Agent or the Lessor that such Event of Default is no longer continuing hereunder.

All proceeds of insurance received by the Lessor and the Agent with respect to any Units of Equipment not suffering a Casualty Occurrence (as hereinafter defined) shall be paid to the Lessee upon proof satisfactory to the Lessor and the Agent that any damage to any Unit with respect to which such proceeds were paid has been fully repaired. Any such proceeds of insurance received by the Lessor and the Agent with respect to a Casualty Occurrence shall be

credited toward the payment required by § 7 hereof with respect to such Casualty Occurrence.

The Lessee represents and warrants that, as of the date of execution of this Lease, it maintains in effect general public liability insurance with respect to its operations (including the Equipment) against damages because of bodily injury, including death, or damage to the property of others. Such liability insurance currently names the Lessor, the Lessee, and the Agent as assureds, provides that it shall not be changed or cancelled prior to 30 days after notice of such change or cancellation is given to Lessor and affords protection in an amount of not less than \$40,000,000 in excess of the first \$5,000,000 for damages resulting from any one accident.

The Lessee covenants and agrees that it will furnish to the Lessor and the Agent certificates of the insurer or other satisfactory evidence of such insurance as is required to be maintained by the Lessee pursuant to this § 21, upon the execution of this Lease, and that during the term of this Lease and thereafter as specified in the first sentence of this § 21, it shall not cause or permit such insurance to be cancelled or changed in any respect without the prior written consent of the Lessor and the Agent.

In order to evidence compliance with the aforesaid insurance provisions, the Lessee shall, upon the request of

the Lessor made not more than one time in any calendar year, submit to the Lessor a certificate of an officer of the Lessee to the effect that such officer has knowledge of the insurance coverage maintained by the Lessee and that such coverage complies with the requirements of this § 21.

§ 22. Execution. This Lease may be executed in several counterparts, but the counterpart delivered to the Interstate Commerce Commission for recordation and subsequently redelivered to the Agent shall be deemed the original counterpart. Although this Lease is dated as of the date first above written, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 23. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania, provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the date first above written.

EQUILEASE CORPORATION

By _____
Vice President

[CORPORATE SEAL]

Attest:

Assistant Secretary

MISSOURI PACIFIC RAILROAD COMPANY

[CORPORATE SEAL]

By L. White Matthews
Vice President

ATTEST:

H. J. Harold
Assistant Secretary

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the date first above written.

EQUILEASE CORPORATION

By J. A. Croft
Vice President

[CORPORATE SEAL]

Attest:

[Signature]
Assistant Secretary

MISSOURI PACIFIC RAILROAD COMPANY

[CORPORATE SEAL]

By _____
Vice President

ATTEST:

Assistant Secretary

STATE OF)
) SS.:
COUNTY OF)

On this day of , 1980, before
me personally appeared , to
me personally known, who, being by me duly sworn,
says that he is Vice President of Equilease Corporation
that one of the seals affixed to the foregoing instrument
is the corporate seal of said corporation, that said
instrument was signed and sealed on behalf of said
corporation, by authority of its Board of Directors
and he acknowledged that the execution of the fore-
going instrument was the free act and deed of said
corporation.

Notary Public

[NOTARIAL SEAL]

STATE OF *Missouri*)
City) SS.:
~~COUNTY OF~~ *St. Louis*)

On this *2nd* day of *June*, 1980,
before me personally appeared *L. White Matthews III*, to
me personally known, who, being by me duly sworn, says
that he is Vice President of Missouri Pacific Railroad
Company, that one of the seals affixed to the foregoing
instrument is the corporate seal of said corporation, and
that said instrument was signed and sealed by him on behalf
of said Corporation and he acknowledged that the execution
of the foregoing instrument was the free act and deed of
said corporation.

Loretta L. Edwards
Notary Public

My Commission Expires January 28, 1982

[NOTARIAL SEAL]

LORETTA L. EDWARDS

Commissioned within and for the County of St. Louis,
Missouri, which adjoins the City of St. Louis, Missouri,
where this act was performed.

SCHEDULE A

Group	Type	Builder's Specifications	Quantity	Lessee's Road Numbers (Inclusive)	Average Unit Price	Total Price	Delivery
I	GP38-2	8090, as amended by 8090-3	15	4300-4314	402,050	6,427,915	F.O.B. McCook, Illinois
II			1	4315	397,165		
II	Subgroup A		7	4316-4322	397,165	3,976,180	
			3	4323-4325	398,675		
Total			26			<u>\$10,404,095</u>	

SCHEDULE I

<u>Payment Period</u>	<u>Casualty Loss Value % of Purchase Price</u>	<u>Payment Period</u>	<u>Casualty Loss Value % of Purchase Price</u>
July 1, 1980	95.85	January 1, 1990	45.38
October 1, 1980	95.50	April 1, 1990	44.92
January 1, 1981	94.55	July 1, 1990	44.49
April 1, 1981	93.58	October 1, 1990	43.36
July 1, 1981	92.55	January 1, 1991	42.99
October 1, 1981	91.70	April 1, 1991	42.66
January 1, 1982	86.23	July 1, 1991	42.37
April 1, 1982	81.93	October 1, 1991	41.36
July 1, 1982	80.73	January 1, 1992	41.14
October 1, 1982	79.57	April 1, 1992	40.04
January 1, 1983	78.28	July 1, 1992	38.86
April 1, 1983	76.98	October 1, 1992	38.75
July 1, 1983	75.67	January 1, 1993	38.58
October 1, 1983	74.24	April 1, 1993	38.16
January 1, 1984	68.52	July 1, 1993	37.51
April 1, 1984	64.01	October 1, 1993	36.02
July 1, 1984	62.64	January 1, 1994	35.18
October 1, 1984	60.99	April 1, 1994	34.45
January 1, 1985	58.20	July 1, 1994	33.81
April 1, 1985	59.58	October 1, 1994	32.40
July 1, 1985	57.60	January 1, 1995	31.68
October 1, 1985	56.95	April 1, 1995	30.06
January 1, 1986	56.53	July 1, 1995	30.14
April 1, 1986	56.09	October 1, 1995	28.58
July 1, 1986	55.62	January 1, 1996	27.70
October 1, 1986	54.97	April 1, 1996	26.78
January 1, 1987	54.45	July 1, 1996	25.82
April 1, 1987	53.87	October 1, 1996	24.09
July 1, 1987	53.24	January 1, 1997	23.02
October 1, 1987	52.11	April 1, 1997	20.00
January 1, 1988	51.40	Thereafter Fair Market Value	
April 1, 1988	50.75		
July 1, 1988	50.12		
October 1, 1988	48.83		
January 1, 1989	48.19		
April 1, 1989	47.61		
July 1, 1989	47.09		
October 1, 1989	45.87		